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**THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

MAXINE FINKELSTEIN, Individually, as)
 Wrongful Death Heir, and as Successor-in-)
 Interest to MILTON FINKELSTEIN,)
 Deceased,)
 Plaintiffs,)
 vs.)
 GENERAL ELECTRIC COMPANY,)
 and DOES 1-300,)
 Defendants.)

No. C07-1274-SBA

JOINT MOTION AND STIPULATION TO
 STAY PROCEEDING OR, IN THE
 ALTERNATIVE, TO CONTINUE CASE
 MANAGEMENT DEADLINE AND
 CONFERENCE, AND TO EXTEND TIME;
~~PROPOSED~~ ORDER TO STAY;
 [PROPOSED ALTERNATIVE] ORDER
 TO CONTINUE

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Case Management Scheduling Order* filed March 5, 2007 (Document 2) and Clerk's Notice (Document 3) filed March 9, 2007, for the following good cause:

On May 1, 2007, Defendant GENERAL ELECTRIC COMPANY, filed Document 9, a Notice to Tag Along Action regarding the pending Multidistrict Litigation ("MDL") in the Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District. Said Defendant subsequently mailed notice to the Judicial Panel on Multidistrict Litigation ("JPML") pursuant to 28 U.S.C. § 1407.

1 On July 29, 1991, the JPML entered an order transferring all asbestos personal injury
2 cases pending in the federal courts to the United States District Court for the Eastern District of
3 Pennsylvania, for coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407. That order also
4 applies to “tag-along actions,” or actions involving common questions of fact filed after January
5 17, 1991. Such actions are to be transferred to the eastern District of Pennsylvania as part of
6 MDL 875, for coordinated pretrial proceedings.

7 The JPML has held that a district court has the authority to stay pending a transfer order.
8 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
9 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need
10 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
11 unnecessary interruption or delay.”)

12 The parties agree that it is likely that the JPML will transfer this matter to the Eastern
13 District of Pennsylvania.

14 However, to date, the Clerk of the JPML has not entered a *Conditional Transfer Order*
15 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be
16 transferred, pursuant to JPML Rule 13(b).

17 It is likely the dates set forth in the *Case Management Scheduling Order* and the *Clerk’s*
18 *Notice*, including the deadlines imposed by Federal Rules of Civil Procedure 26, will come to
19 pass before the Clerk of the JPML acts.

20 The parties make this Motion on the grounds that a stay of this action would (a) promote
21 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
22 parties.

23 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to
24 and respectfully request the Court VACATE its *Case Management Scheduling Order*, the
25 *Clerk’s Notice* and that the Court issue an Order STAYING this action pending the outcome of
26 the MDL Panel’s decision on the merits of the transfer.

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In the alternative, the parties hereby STIPULATE to and respectfully request that the dates set forth in the *Case Management Scheduling Order* (Document 2) and Clerk's Notice (Document 3) be vacated and continued pending the outcome of the JPML's decision on the merits of the transfer. Specifically, these deadlines in this matter include the **May 23, 2007** Rule 26 deadline to meet and confer, and file Joint ADR Certification, the **June 6, 2007** Deadline to complete Initial Disclosures, the **June 6, 2007** deadline to file the Joint Case Management Statement and the Case Management Conference, currently set for **June 13, 2007** at 2:30 pm by telephonic conference.

Dated: May 1, 2007

BRAYTON❖PURCELL LLP

/s/ David R. Donadio

By: _____
David R. Donadio
Attorneys for Plaintiffs

Dated: May 1, 2007

SEDGWICK, DETERT, MORAN &
ARNOLD, LLP

/s/ Derek Johnson

By: _____
Derek Johnson
Attorneys for Defendant
GENERAL ELECTRIC COMPANY

[PROPOSED] ORDER TO STAY

IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case Management Scheduling Order* filed March 5, 2007 (Document 2), and the *Clerk's Notice* filed March 9, 2007 are hereby VACATED and that this action is STAYED pending the outcome of the JPML's decision on the merits of the transfer.

Dated: 5/7/07


Sandra B. Armstrong
United States District Court Judge

[PROPOSED ALTERNATIVE] **ORDER TO CONTINUE**

IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case Management Scheduling Order* filed March 5, 2007 (Document 2), and the *Clerk's Notice* filed March 9, 2007 are hereby VACATED.

IT IS FURTHER ORDERED that the following case management deadlines are continued as follows:

1. Last day to meet and confer re initial disclosures, early settlement, ADR process selection, and discovery plan is [set for a date **on or after August 10, 2007** to wit:] _____, 2007;

2. Last day to file Joint ADR Certification with Stipulation to ADR process or Notice of Need for ADR Phone Conference is [set for a date after August 10, 2007 to wit:] _____, 2007;

3. Last day to complete initial disclosures or state objection to Rule 26(f) Report, file/serve Case Management Statement and file/serve Rule 26(f) Report is [set for a date after August 10, 2007 to wit:] _____, 2007; and,

4. The Case Management Conference is [set for a date after August 10, 2007 to wit:] _____, 2007 at _____ m. via telephone, with Plaintiff's counsel to set up the conference call with all the parties on the line and call chambers at (510) 637-3559.

Dated: _____

Saundra B. Armstrong
United States District Court Judge